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New York

President:	Mr. Ohin	(Togo)
Members:	Azerbaijan	Mr. Mehdiyev
	China	Ms. Guo Xiaomei
	Colombia	Mr. Osorio
	France	Mr. Bonne
	Germany	Mr. Eick
	Guatemala	Mr. Rosenthal
	India	Mr. Manjeev Singh Puri
	Morocco	Mr. Bouchaara
	Pakistan	Mr. Tarar
	Portugal	Mr. Vaz Patto
	Russian Federation	Mr. Karev
	South Africa	Mr. Tladi
	United Kingdom of Great Britain and Northern Ireland	Sir Mark Lyall Grant
	United States of America	Mr. DeLaurentis

Agenda

The situation in Somalia

Report of the Secretary-General on specialized anti-piracy courts in Somalia and other States in the region (S/2012/50)

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The meeting was called to order at 10.45 a.m.

Adoption of the agenda

The agenda was adopted.

The situation in Somalia

Report of the Secretary-General on specialized anti-piracy courts in Somalia and other States in the region (S/2012/50)

The President (*spoke in French*): In accordance with rule 37 of the Council's provisional rules of procedure, I invite the representative of Somalia to participate in this meeting.

In accordance with rule 39 of the Council's provisional rules of procedure, I invite Ms. Patricia O'Brien, Under-Secretary-General for Legal Affairs and Legal Counsel of the United Nations, to participate in this meeting.

In accordance with rule 39 of the Council's provisional rules of procedure, I invite Mr. Yuri Fedotov, Executive Director of the United Nations Office on Drugs and Crime, to participate in this meeting.

The Security Council will now begin its consideration of the item on its agenda.

I wish to draw the attention of Council members to document S/2012/50, which contains the report of the Secretary-General on specialized anti-piracy courts in Somalia and other States in the region.

I now give the floor to Ms. O'Brien.

Ms. O'Brien: I am pleased, on behalf of the Secretary-General, to have this opportunity to present his report on specialized anti-piracy courts in Somalia and other States in the region (S/2012/50), alongside Mr. Fedotov, Executive Director of the United Nations Office on Drugs and Crime (UNODC). The Secretary-General has consistently pressed the United Nations and other international organizations to do more to contribute to a solution to the complex problem of piracy off the coast of Somalia. He has been concerned also by the spread of this scourge to other regions and the consequent human and economic costs.

The United Nations continues to stand ready to assist the international community to respond in the most effective way possible to counter piracy. Council members will recall that, as far back as March 2009, the Secretary-General dispatched me on a mission to Kenya to discuss the issue with the Kenyan authorities and the United Nations offices active on the ground. In April last year, he dispatched me again to represent him at the conference organized and hosted by the Government of the United Arab Emirates on "Global Challenge, Regional Responses: Forging a Common Approach to Maritime Piracy".

The Secretary-General himself will attend the London conference on Somalia, to be attended by Heads of State and Government and other senior representatives. Today's meeting of the Security Council to consider the Secretary-General's report marks the beginning of a busy schedule in which the international community is focusing its attention on the need to counter piracy effectively and to bring the terrible human suffering and economic costs to an end.

The London conference will provide an important opportunity for the international community to discuss piracy in the context of the wider issues facing Somalia. The hope and expectation are to drive forward the progress that has been made in a number of areas. It will be followed in March by meetings of the working groups of the Contact Group on Piracy off the Coast of Somalia, which will be able to follow up and implement the elements agreed at the political level.

The priority and importance that my Office gives to piracy reflect the Security Council's close attention to that serious issue. The human cost of piracy off the coast of Somalia is incalculable, with killings and widespread hostage-taking. Although the numbers of incidents of piracy off the coast of Somalia declined during 2011, as did the success rate of such attacks, there were nevertheless 265 hostages being held at the end of 2011. Increasing levels of violence and the expanding geographical scope of the attacks are all extremely worrying.

As I said when presenting the previous report (S/2011/360) on behalf of the Secretary-General in June last year (S/PV.6560), the problem of piracy clearly demonstrates the increasing interdependence of States and people in a globalized world. The human, commercial and security interests under threat engage a large number of States and international and regional organizations that all have a stake in finding a solution.

Against that background, the Secretary-General's report on specialized anti-piracy courts is the third in a

series of such reports requested by the Security Council that I believe will assist the Council's deliberations. As with the previous reports, it has been prepared by my Office in close consultation with Mr. Fedotov's Office and the United Nations Development Programme (UNDP). We have, of course, been working very closely throughout the entire process with our colleagues in UNODC, both in Vienna and in Nairobi.

The report has also had input from the Department of Political Affairs, the United Nations Political Office for Somalia and the International Maritime Organization. Consultations have been held with the Department of Peacekeeping Operations, the Department of Safety and Security, the Office of the United Nations High Commissioner for Human Rights and INTERPOL. In responding to the Security Council's request in resolution 2015 (2011), UNDP and UNODC have conducted detailed consultations with the relevant police, prosecution, judicial and prison authorities in the concerned regional States. Senior members of the Office of Legal Affairs have followed up with consultations with the Governments concerned through their Permanent Missions in New York.

The Security Council's request to the Secretary-General in resolution 2015 (2011) focuses on further consultations with Somalia and other States in the region willing to establish specialized anti-piracy courts. At the outset, it is important to recognize that a great deal is already being done to ensure the prosecution of piracy suspects. A total of 20 States worldwide have been prosecuting, or have prosecuted, a total of 1,063 piracy suspects since 2006. Of that total, more than 900 of the suspects have been prosecuted in 11 States in the region.

Of those 11 States in the region, five are prosecuting piracy suspects with the assistance of the United Nations, or are seriously considering doing so. They are Somalia, Seychelles, Kenya, Mauritius and Tanzania. I am most grateful to those States for their cooperation in the preparation of the report and for their dedication in combating piracy. In respect of Somalia, the report deals with Puntland and Somaliland, as those are the regions where the security situation, although not ideal, allows for international assistance for prosecutions to be delivered.

A point made firmly to us in the course of the consultations, which has been reflected in the report, is that the States in the region that are conducting piracy prosecutions have taken on a heavy responsibility that entails a commitment of national resources, as well as security risks. It is key that the international community both acknowledge the important prosecution role that they are playing and match their commitment with strong international support and assistance. They each underlined the continuing need for contributions by States, international organizations and the shipping industry to the Trust Fund to Support Initiatives of States Countering Piracy off the Coast of Somalia. Before outlining the substance of the report, I would like to mention three initial points as to its scope.

The first point is that the Security Council's request in resolution 2015 (2011) concerns national courts in Somalia and other States in the region. It does so by requesting the Secretary-General, UNODC and UNDP to conduct consultations with Somalia and other States in the region that are willing to establish specialized anti-piracy courts, and that the consultations concern the kind of international assistance, including the provision of international personnel, required to make such courts operational.

The courts that are the subject of the Security Council's request, therefore, are courts established by the regional States themselves — their own domestic courts. The request does not concern the range of other options for special domestic chambers, possibly with international components, a regional tribunal or an international tribunal. Those were all the subject of the Security Council's first request to the Secretary-General in resolution 1918 (2010), and were dealt with in the Secretary-General's report dated 26 July 2010 (S/2010/394).

Secondly, the Security Council's request in resolution 2015 (2011) does not expressly mention the possibility of a Somali specialized anti-piracy court sitting extraterritorially in the territory of another State in the region, as proposed by the Special Adviser of the Secretary-General, Mr. Jack Lang. That was the subject of the Secretary-General's second report, dated 15 June 2011. However, as Mr. Lang's proposal concerns a national Somali court, not any form of international court, we have briefly reviewed it again in the context of the current report. That can be found in paragraphs 37 and 38 of the current report.

The third point that I would like to make concerns the words "specialized anti-piracy courts" in

the Security Council's request. Consultations with the national authorities of the five States concerned indicate that they would not favour establishing new special courts with jurisdiction exclusive to piracy offences. They consider that that would constrain scarce prosecution and judicial resources to piracy cases in the absence of any certainty that they would be consistently and fully occupied. The term "specialized anti-piracy court" is therefore used in the report to refer to a court operating under national law, with international assistance, with a focus on the prosecution of piracy cases.

Turning to the substance of the report, the Security Council's request asks, in particular, about the kinds of international assistance needed for specialized anti-piracy courts, including the provision of international personnel, the projected case capacities of such courts, and the timeline and costs for their establishment. We have addressed each of those aspects of the request through detailed consultations with the relevant police, prosecution, judicial and prison authorities of the five regional States.

In respect of each of Puntland, Somaliland, Seychelles, Kenya, Mauritius and Tanzania, the report analyses, first, the current capacity to investigate and conduct piracy prosecutions and to imprison those convicted. In doing so, it sets out the international assistance that has been provided to date. Secondly, the report analyses the potential case-load capacity that each of those jurisdictions could achieve through the provision of further international assistance. In other words, it sets out the number of cases that could be prosecuted per year in accordance with international standards if capacity were maximized through the provision of further international assistance.

On that basis, the conclusion of the report is that those jurisdictions collectively could achieve a total of around 125 piracy prosecutions per year, with up to 10 suspects in each case. Therefore, if international assistance were maximized, up to 1,250 piracy suspects could be prosecuted each year in accordance with international standards. That increase in capacity could be achieved within two years in Puntland and Somaliland, with an additional year of mentoring and monitoring, and within one year in each of the other jurisdictions, although the assistance should be maintained beyond one year in order to sustain the results.

The cost of the assistance for prosecutions set out in the report over a three-year period in Puntland and Somaliland would total a little more than $7 million, and over a two-year period in the four remaining regional States around $9.5 million. The potential is therefore for more suspects to be prosecuted per year in those five regional States than the total number of piracy suspects prosecuted globally since 2006, and at a cost that is modest, I suggest, compared to that of any of the existing international or hybrid tribunals. However, the maximum caseload capacity that I have just described is not necessarily a recommended target. I will outline the reasons for this.

First, the size and resources of the various jurisdictions considered in the report vary considerably. The projected maximum capacities for each are based on the best estimates of UNDP and UNODC. They are not necessarily guaranteed.

Secondly, the report outlines a possible discrepancy between the maximum achievable caseload capacity and the actual demand for prosecutions being generated by the capture of piracy suspects at sea by naval forces off the coast of Somalia. The three naval coalitions engaged in anti-piracy operations off the coast of Somalia made only three requests to regional States — Kenya and Seychelles — for the transfer of piracy suspects in 2011, involving a total of 42 suspects. The transfer of all of these suspects was accepted. Only one incident was reported by the naval coalitions in which the suspects were released in circumstances where there may have been sufficient evidence to pursue prosecution.

We do not know the reasons underlying this low number of requests for transfer to regional States. It may be, therefore, that some further research and analysis would be needed before any decisions are finalized regarding the caseload capacities that should be aimed for in the courts of the regional States. The Special Adviser to the Secretary-General, Mr. Jack Lang, reported in January 2011 that around 90 per cent of those apprehended at sea are released. If such a large number of suspects are being released at sea, it would be key to the effectiveness of the international community's efforts to combat piracy to determine why this is the case.

Working Groups 1 and 2 of the Contact Group on Piracy off the Coast of Somalia might wish to take up this question. These are the Working Groups dealing

with operational coordination matters and legal issues, respectively.

A further important development that I would like to draw to the attention of the Council is the willingness of the Government of Seychelles to host a regional prosecution centre. UNODC is already providing assistance to this end. Consistent with the principles identified by Mr. Jack Lang, the purpose of the centre is to act as a focal point for regional and international support for the prosecution of piracy suspects, and to provide a location offering relative logistical ease for their transfer by naval forces.

I would like to take this opportunity to commend the Government of Seychelles for this initiative. The willingness of the Government to host a regional prosecution centre is, understandably, contingent upon there being an effective post-trial transfer framework in place so that those convicted can serve their sentences in Somalia. This is a further important consideration that has been prominent in each of the three reports of the Secretary-General. Prosecutions in the region will meet a bottleneck unless there is international assistance to ensure sufficient prison spaces to accommodate those convicted, ideally in Somalia.

Seychelles will also open, in the course of this year, the Regional Anti-Piracy Prosecution and Intelligence Coordination Centre. The Centre will develop the regional expertise to track piracy finances and develop cases for the prosecution of those who plan, organize and finance piracy attacks. This is a most important development that accords with the emphasis of the Security Council in its resolution 2015 (2011) on the need to prosecute not only suspects captured at sea, but also the key figures of the criminal networks who organize and profit from piracy attacks.

In this regard, I would also like to draw attention to the newly established Working Group 5 of the Contact Group, chaired by Italy, focusing on the illicit financial flows associated with piracy, with a view to disrupting the financing and planning of piracy attacks.

Finally, I would like to draw attention to the detailed implementation proposals for specialized anti-piracy courts set out in the report, as requested by the Security Council in resolution 2015 (2011).

These are divided into measures of a more general nature, including a number that may be considered by the Council itself, and specific measures of assistance to be taken by UNDP and UNODC. Again, I should underline that these specific implementation measures are included on the basis of maximizing the caseload capacities of the courts in Puntland, Somaliland, Seychelles, Kenya, Mauritius and Tanzania. Before such measures are taken, it may be necessary for further research and analysis to be carried out to consider the actual demand for prosecutions in these States, which is likely to be generated by requests for the transfer of suspects apprehended at sea by naval forces.

The President (*spoke in French*): I thank Ms. O'Brien for her briefing.

I now give the floor to Mr. Fedotov.

Mr. Fedotov: Resolution 2036 (2012), which was just adopted, stresses the need to investigate, prosecute, imprison when duly convicted pirates and those who illicitly finance, plan, organize and unlawfully profit from piracy attacks.

It is an honour for the United Nations Office on Drugs and Crime (UNODC) to update the Council on what UNODC is doing to address this challenge. Since I briefed the Council on this issue last year, the piracy threat has continued to grow. Based on our data, in 2011 pirates received about $170 million in ransom for hijacked vessels and crews. The figure has risen since the previous year, 2010, when ransoms paid amounted to over $110 million. The average payment made to pirates last year was about $5 million, instead of $4 or $3 million in previous years. Also, as much as $10 million was paid for the release of a tanker.

The ransom money from piracy is flowing into the legal financial system at an increasing rate. The laundering of piracy proceeds is causing steep price rises in the Horn of Africa and the surrounding areas, and the money is also being reinvested in criminal activities that are not limited to piracy. Drug, weapon and alcohol smuggling, as well as human trafficking, also benefit from the proceeds of piracy.

Although UNODC is unaware of an ideological link between Al-Shabaab, which has joined Al-Qaida, and pirates, there is strong evidence of cooperation in furtherance of the two groups' aims. Therefore, piracy is creating a clear threat to the stability of the region.

I listened very carefully to the statement of my colleague, Ms. O'Brien, and she facilitated my task. I can speak in lesser detail, although I will quote some

figures. I hope that our figures will ultimately coincide. UNODC Global Programme against Money-Laundering (GPML) is engaged in cooperation with other United Nations agencies and Member States within Working Group 5 of the Contact Group on Piracy off the Coast of Somalia. The Programme is helping to increase awareness of illicit money flows linked to piracy. Central to GPML activities is its support for financial intelligence units and law enforcement agencies in East Africa. We organized two international conferences on illicit financial flows last year — one in Nairobi and another in Djibouti. We are now working, under a programme with the World Bank and INTERPOL, on a report on illicit financial flows linked to piracy, which will be published at the end of this year.

To make our efforts more effective, we need broader international support beyond this region. That is the most efficient way to sever the arteries that sustain piracy. At the same time, of course, we are continuing to address the crime of piracy. UNODC's counter-piracy programme is providing support to regional countries that agree to take piracy suspects.

We are working in particular through extensive training programmes for police, prosecutors, judges and prison personnel in Kenya, Seychelles and Mauritius, as well as within Somalia itself, where security conditions allow. The programme started in 2009 with a budget of $500,000, which this year has expanded to $40 million. This year we will be allocating some $16 million to cover a range of technical assistance to the countries of the region.

Our piracy prisoner transfer programme supports the transfer of convicted pirates back to Somalia to serve their sentences, while building capacities to ensure that prison conditions meet international standards. UNODC has built a model prison in Hargaisa, Somaliland. Construction of a prison academy has begun in Garowe, Puntland. Construction of a court, a farm and a 500-man prison will soon follow. Under the programme, we are also training prison staff, mentoring staff and prisoners, and monitoring prisons on a full-time basis. In Kenya and Seychelles, UNODC has refurbished prisons, built courtrooms and provided transport.

The assistance provided is strengthening the overall criminal justice system in those countries and helping it to become fair, efficient and consistent with human rights standards.

Based on our review and the latest data, which I received just yesterday, 1,116 Somali men are being, or have been, prosecuted for piracy in a total of 20 countries around the world, and 688 in the region. In Kenya, 168 pirates are being, or have been, prosecuted; 50 have been convicted, and 10 have completed their sentence; 17 have been acquitted; and the remainder are awaiting trial.

In the Seychelles, 88 pirates are being, or have been, prosecuted; 63 have been convicted; and the remainder are awaiting trial.

Mauritius has signed a transfer agreement with the European Union (EU) and will accept the transfer of piracy suspects for prosecution. A joint EU/UNODC programme is now being implemented that will support the Government of Mauritius in prosecuting pirates.

UNODC's counter-piracy programme is contributing to criminal justice systems in the region. However, the presence of child pirates within those systems represents a complex issue, on which I must from time to time answer questions from Member States. In the absence of birth certificates or any other forms of identification, courts in Kenya and Seychelles rely on medical advice in determining the age of pirate suspects; as a result, they have determined that seven of the 252 pirate suspects are under 18 — one in Seychelles and six in Kenya.

The counter-piracy programme is currently developing an advocacy programme to reach out to Somali youth. It will liaise with key stakeholders, including community leaders, politicians and religious leaders. Television, radio and print media will be used in the programme. Our advocacy programme complements United Nations Development Programme activities on alternative livelihoods that will use microfinance projects, among others, to show Somali youth that there are sustainable choices other than piracy.

Overall, the issue of piracy requires a strong inter-agency approach that addresses not only the law-enforcement and judiciary aspects of the problem, but its root causes in Somalia itself, as well as in the world's financial centres.

The President (*spoke in French*): I shall now give the floor to the members of the Council.

Mr. Karev (Russian Federation) (*spoke in Russian*): We thank you, Mr. President, for having convened this meeting to discuss this most important issue.

This is the second day that the Council has been seized of the issue of threats to international peace and security emanating from transnational organized crime. Yesterday we spoke of West Africa and neighbouring countries. Today, we are talking about East Africa and the issue of piracy. This underscores once again the need for the Council to devote increasing attention to those growing threats.

We thank Ms. O'Brien and Mr. Fedotov for their briefings on key components of the report of the Secretary-General (S/2012/50), distributed to the Council in accordance with resolution 2015 (2011). The report makes clear that many issues remain in connection with the process of establishing effective legal mechanisms, with international participation, specialized primarily in the prosecution of pirates operating off the Somali coast. The report underscores the fact that in spite of the scaled-up efforts made by the international community, the business of piracy is flourishing and expanding. The most recent data provided by the International Maritime Organization indicates that the ransoms paid to pirates and aggregate economic losses from piracy total $12 billion per year. Those figures speak for themselves.

These developments result first and foremost from the prevailing political and economic situation in Somalia. However, it is clear that in the absence of the appropriate capacities for tackling the issue of pirate impunity in the general context of counter-piracy, the situation is unlikely to improve.

Signs of major improvements in the prosecution of pirates are not yet evident. Indeed, the report reiterates that the overwhelming majority of suspected pirates are released. In 2011, there were only four cases in which detainees were transferred to States of the region for prosecution by national courts.

The recent experiences of our colleagues from the Danish naval forces are just another example of that trend. The situation is such that in Somaliland, almost 100 convicted pirates were released. It is easy to understand why naval personnel in most cases prefer to avoid detaining alleged pirates. They understand the difficulties they would face in attempting to transfer them to regional courts. Moreover, there is no guarantee that convicted pirates, once released, will not once again join the ranks of pirate armies.

We are interested in studying the root causes of the situation. This is not just an issue involving a lack of prisons or the limited capacities of local justice systems. Ambiguity remains in important aspects of the relevant legal proceedings — detention, transfer, evidence collection — and thus in terms of prospects for the prosecution of pirates.

Russia attaches great importance to continuing efforts to strengthen the judicial and law-enforcement capacities of the countries of the region. We note the important contributions made by the United Nations Office on Drugs and Crime (UNODC). If the international community continues to support current mechanisms for prosecution over the next two years, the situation will turn around. At present, however, we unfortunately do not see a basis for such optimism. The resources of national legal systems of coastal States are obviously limited, and, even with the most intensive assistance to capacity-building, those States alone cannot deal with the large number of pirates. The information contained in the report makes this clearly evident.

It is encouraging that the Council is essentially of the view that additional measures are necessary for the prosecution of pirates, mindful as it is that the foundation of an effective anti-piracy justice mechanism consists of the national justice systems of the States of the region.

In that respect, we thank the Governments of Seychelles, Tanzania, Kenya and Mauritius for their demonstrated interest in cooperation with the international community on this matter. As the report of the Secretary-General makes clear, these countries satisfy the necessary conditions for successful joint work in this field. Following the publication of the report, the Government of Qatar expressed its readiness to establish an anti-piracy judicial mechanism on its territory, for which we are also very grateful.

We continue to attach great importance to the international component of efforts to bring pirates to justice. In our view, international participation, which is already partially under way in the region, is key to resolving many issues. That would include increasing the effectiveness of legal proceedings and compliance with recognized standards of justice. Russia is prepared to consider different formats of international

cooperation. However, most promising in our view is the direct participation of highly qualified foreign specialists and anti-piracy proceedings.

We were also intrigued by the report's idea of improving anti-piracy laws, building and equipping new legal institutions, and selecting international personnel. Given the limited financial capacities, we think it would be advisable at this stage to concentrate efforts on establishing anti-piracy legal mechanisms with international participation in those countries of the region that have demonstrated absolute readiness to implement such measures.

In conclusion, Mr. President, we should like to assure you that the Russian Federation shall continue to do its utmost to resolve the issue of piracy off the Somali coast.

Mr. Manjeev Singh Puri (India): Let me begin by thanking Under-Secretary-General O'Brien and the Executive Director of the United Nations Office on Drugs and Crime (UNODC), Mr. Yuri Fedotov, for their valuable statements concerning the specialized anti-piracy courts in Somalia and other States in the region. I would also like to thank the Secretary-General for his report on the subject (S/2012/50).

The report presents a grim picture of the piracy scenario off the coast of Somalia. It notes that, during 2011, there were 286 attacks against ships in the waters off the coast of Somalia, of which 31 were successful. As of 20 December 2011, 13 ships were held by pirates, with a total of 265 hostages. Despite a reduction in the number of successful attacks, the total number of pirate attacks continues to be high. We also note that the geographic spread of pirate activities has expanded into the Red Sea, the Somali Basin and into the western Indian Ocean. Pirates now operate in the high seas at distances of up to 1,750 nautical miles from the coast of Somalia, covering a geographical area of roughly 2.8 million square miles. The pirates have continued to deter action by navies through the greater use of captured ships and dhows as mother ships, often retaining the captured crews onboard as human shields. Violence against seafarers continues to be reported, and the safety and security of seafarers remain a matter of very serious concern.

The report notes that consultations with Somalia have indicated that the Somali authorities continue not to favour the establishment of a Somali court outside the territory of Somalia, preferring that any assistance for new courts be implemented within Somalia. At the same time, Somalia also faces challenges in relation to the adequacy of the legislative basis for piracy prosecutions and the level of training and qualifications of Somali judges, prosecutors and other legal professionals. These challenges need to be addressed on a priority basis.

Given the continuation of the Somali authorities not being favourably disposed towards the establishment of a Somali court outside the territory of Somalia, a fresh look at possible solutions is necessary. Piracy off the coast of Somalia emanates from the Somali problem, and the solution needs to have Somalia's concurrence and the support of its institutions. The imposition of external solutions will not work in the long run, especially when the regional States have a clear preference for the transfer of convicted offenders to Somalia to enable them to serve their remaining sentence there.

In this context, it is important to note that in view of the continuing challenges facing the establishment of an extraterritorial Somali anti-piracy court at this stage, Working Group 2 of the Contact Group on Piracy off the Coast of Somalia has discussed the possibility of developing a regional prosecution center, for example in Seychelles. Its purpose would be to act as focal point for regional and international support to the prosecution of piracy suspects and to provide a location offering relative logistical ease for their transfer by naval forces. As the regional prosecution centre would be based in the national legal system of Seychelles, it would be cost-effective and easy to set up.

The views of the Somali authorities on this matter should be obtained in consultation with the United Nations Development Programme (UNDP) and UNODC. We also request the Secretariat to work out the modalities of establishing such a focal point and its likely impact on the overall prosecution and punishment of pirates, as well as those involved in the financing and laundering of the proceeds of piracy and armed robbery at sea.

The Secretary-General has also suggested detailed implementation proposals for the specialized anti-piracy courts in Somalia, Tanzania, Seychelles and Mauritius. Those implementation proposals are important and need to be considered and further discussed by the Council, as well as by UNDP and

UNODC. We fully support the Secretary-General's view that, as a first step, an assessment — with the assistance of the naval coalitions and other States active in naval operations — is necessary to determine the number of piracy incidents where the suspects are apprehended but released and the reasons underlying the releases. That assessment is a precondition for assessing the required national and regional capacity for prosecuting and incarcerating pirates. We also agree with the Secretary-General's conclusion that such information would assist the Security Council in its consideration of the most effective measures to combat piracy off the coast of Somalia, and regional States and the United Nations in determining the likely anticipated demand for prosecution capacity in the region for the foreseeable future.

A decision from the budgetary point of view would also be useful. Before coming to a final view on the establishment of extraterritorial Somali courts, there is a need to consider the estimated annual costs of the establishment of such extraterritorial courts, in consultation with the interested regional States and concerned United Nations agencies. The need for stand-alone premises and to assess associated security costs; the salaries and other expenses of international experts, including judges and prosecutors, including from the Somali diaspora; and the sources of such funding on a sustained long-term basis are important.

In conclusion, the Secretary-General's report raises important issues and made valuable suggestions that need to be further considered and developed. The solution to the problem of piracy in Somalia lies not at sea, but on land. It is important that the Transitional Federal Institutions in Somalia follow the road map with sincerity and commitment. We also support the strengthening of national and regional capacities in the drafting of national anti-piracy legislation and the investigation, prosecution and sentencing of suspected pirates. The prosecution of those involved in the financing of pirate activities, and the cooperation of States in the sharing of information and evidence concerning such persons and activities, including in the release of hostages, are equally important.

Mr. Bouchaara (Morocco) (*spoke in French*): First of all, I would like to thank the Togolese presidency for scheduling today's important meeting, and I thank you personally, Mr. Minister, for your presence today in the Council. It testifies to your country's commitment to important African causes, and we thank you most sincerely. Our thanks go as well to Ms. Patricia O'Brien and to Mr. Yuri Fedotov for their comprehensive and lucid briefings.

The report of the Secretary-General before us today (S/2012/50) presents a series of measures that could have a positive effect in the fight against and repression of piracy off the Somali coast. Despite the reduction in acts of piracy during 2011, that scourge is still a major cause for concern because of its human cost, with the taking of hostages and its destabilizing effects on the society and economy of Somalia, but also, more importantly, the threat it poses to the stability of the region as a whole.

To fight piracy effectively and to put an end to impunity require, as the Secretary-General's report amply shows, comprehensive arrangements of measures and actions. Those arrangements should include strengthening investigation capacities, setting up an effective, adapted legislative framework and establishing jurisdiction, with the necessary human and material means.

The States of the region have not lagged in deploying considerable efforts to bring to justice and to imprison those guilty of piracy, and they have devoted considerable resources to that end. However, establishing a juridical framework to address piracy will not have much impact without adequate laws and sufficient prison capacity. A legislative framework in keeping with international law in the matter, particularly the United Nations Convention on the Law of the Sea and international norms of human rights, is one of the necessary conditions for effectively fighting piracy.

To ensure the effectiveness of the various anti-piracy jurisdictions, better training is necessary, especially for judges, prosecutors, defence attorneys and other legal professionals. Moreover, it is necessary to increase prison capacity in Somalia and other countries in the region to hold those found guilty in accordance with requisite international norms, in order to ensure the effectiveness of the entire legal system to be established for the fight against piracy.

I take this opportunity to commend the support of the United Nations Development Programme and the United Nations Office on Drugs and Crime in helping Somalia and other countries of the region in the legal, juridical and penal fields, with an eye to fighting impunity for piracy. I also commend the work of the

Contact Group on Piracy off the Coast of Somalia, whose contribution is significant in promoting an effective global response to the problem.

My delegation supports the Secretary-General's call to the international community to offer significant aid to Somalia and other countries of the region to implement the measures necessary to fight the scourge of piracy. In that regard, we commend the London Conference on Somalia, which, among other things, may spur a coordinated international response to fight piracy off the coast of Somalia.

As for the judicial responses envisaged, particularly the establishment of an extraterritorial Somali court, it is important that the views of the concerned countries in the region be taken into account to ensure their ownership of and engagement in the implementation of those solutions. Moreover, it is important, given the urgency of the situation and the threats posed by piracy, that decisions in this matter be made as soon as possible.

Actions against piracy should also include pursuing those people suspected of financing, planning and organizing this type of act. In that context, my delegation notes with appreciation the initiative to establish a regional centre in Seychelles to coordinate prosecution and intelligence, in order to improve tracking the piracy financing trail.

Finally, I want to underline that while bringing to justice and imprisoning pirates is necessary to fight piracy — and especially to fight o impunity — it is no less important to address the root causes of the problem through political stabilization in Somalia.

Mr. DeLaurentis (United States of America): We thank the Secretary-General for producing his informative report (S/2012/50), and Under-Secretary-General O'Brien and Executive Director Fedotov for their briefings today. We believe that the report, prepared in conjunction with the United Nations Office on Drugs and Crime (UNODC) and the United Nations Development Programme (UNDP), provides and excellent blueprint for moving forward on the piracy prosecution front. Among other things, the report provides a most useful and very comprehensive needs assessment with respect to ongoing efforts in various regional States, laying out clearly what the current state of play is in each venue and pinpointing specific measures that need to be taken in order to move to the operational phase.

Even as piracy continues to present challenges off the coast of Somalia, we are cautiously optimistic about some of the findings in the Secretary-General's report, including that the success rate of attacks decreased in 2011. As more nations implement the guidance provided by the International Maritime Organization — the industry-developed best-management practices for protection against Somalia-based piracy — and employ the use of privately contracted armed security personnel, we are hopeful that the numbers will continue to decrease. However, we remain extremely concerned by reports that the geographical expanse of pirate operations is intruding into the southern Red Sea and extending as far as the eastern Indian Ocean.

In addition to the human toll associated with piracy, the economic costs of dealing with the piracy threat are staggering. The grim statistics reinforce the need, as one part of the solution to the piracy problem, to establish specialized anti-piracy courts and increase the capacity to conduct prosecutions. We note that an ultimate goal in this regard is enhancing Somali responsibility and active involvement in efforts to prosecute and incarcerate suspected pirates. As one aspect of that, we stress the importance of the Transitional Federal Government of Somalia enacting anti-piracy legislation by 18 May, as called for in the road map to end the transition, and the Transitional Federal Parliament passing appropriate counter-piracy legislation before the end of the transitional period in August.

We applaud the tremendous amount of work already under way by the UNODC, UNDP and others to assist Somalia and regional States in conducting piracy prosecutions. We are very encouraged by the projection that, with assistance, States in the region could collectively increase the number of piracy prosecutions per year by 125, involving up to 1,250 suspects, in accordance with international standards. That includes, as appropriate, prosecution of planners, facilitators and financers of piracy attacks.

We thank, among others, the Government of the Seychelles for its indication of willingness to host a regional prosecution centre, contingent on the establishment of an effective post-trial transfer framework, and we look forward to the opening this year of its Regional Anti-Piracy Prosecution and Intelligence Coordination Centre. We also acknowledge Council resolution 2020 (2011) and its

commendation of INTERPOL for the creation of a global piracy database designed to consolidate information about piracy off the coast of Somalia and facilitate the development of actionable analysis for law enforcement. We urge all States to share such information with INTERPOL for use in the database through appropriate channels.

We recognize that any increase in prosecution capacity in the region necessarily will require an increase in prison capacity. In that regard, we support the continuing efforts of Somali authorities, UNODC, UNDP and other international partners in supporting the construction and responsible operation of suitable and sufficient prisons in Somalia and elsewhere in the region. For its part, the United States will continue to aggressively prosecute suspected pirates in cases with a United States nexus. We have in custody a total of 28 Somalis at various stages of prosecution or incarceration, in five cases of attacks on American citizens or interests.

We believe that the report (S/2012/50) of the Secretary-General demonstrates that the experts of UNODC, UNDP, the Contact Group on Piracy off the Coast of Somalia and other stakeholders understand clearly the problems and needs with respect to piracy prosecutions and how best to address those needs. That is why contributions to the Trust Fund to Support Initiatives of States Countering Piracy off the Coast of Somalia are so vitally important to permit timely implementation by UNODC, UNDP and others of as many of the specific steps called for in the Secretary-General's report as possible. The United States contributes regularly to the Trust Fund and is confident that projects it funds are making a real difference in building capacity related to the rule of law in the region, and specifically to countering piracy.

We also recognize the importance to Seychelles and other States of the region of international assistance efforts in the form of the provision of personnel, as called for in the report. We are studying ways in which we can contribute materially to the joint United Kingdom-Seychelles proposed regional anti-piracy prosecution intelligence and information centre to be located in Victoria, and believe that the centre will make a material contribution to the international efforts to disrupt the piracy enterprise ashore.

Finally, we endorse the report's suggestion that, as a logical next step, an assessment be conducted, with the assistance of States active in naval operations, to help to determine the number of piracy incidents where suspects are apprehended and released, as well as the reasons underlying those releases. As the report notes, that will assist both in sharpening the counter-piracy strategy and determining the likely anticipated demand for prosecution capacity in the region for the foreseeable future.

Mr. Osorio (Colombia) (*spoke in Spanish*): We have taken careful note of the report (S/2012/50) of the Secretary-General on the establishment of specialized anti-piracy courts in Somalia and other States in the region. We are grateful for the important remarks made by Ms. Patricia O'Brien, Under-Secretary-General for Legal Affairs, as well as by Mr. Yuri Fedotov, Executive Director of the United Nations Office on Drugs and Crime (UNODC).

In spite of the reduction in the number of attacks along Somali coasts in the past year, the total number of pirate attacks continues to be high. The broadening geographic scope and increasing sophistication of pirate operations are a source of concern, as are the high number of hostages still being held and incidents of violence against crews, including their use as human shields.

Piracy is yet another consequence of the institutional fragility and precarious economic conditions in Somalia. Although international cooperation in providing security for navigation, prevent attacks and capture pirates has yielded some positive results, we believe that security along Somalia's coasts will be built on land. As both the main source and victim of that crime, Somalia must therefore participate comprehensively in resolving this problem.

In order to respond effectively and sustainably to the problem of piracy, it is necessary to restore peace in Somalia and to foment its social and economic development. To that end, it is necessary to strengthen institutions in a manner that the economic, security, judicial and penal and components can be acted on simultaneously. Such an approach must in turn be focused on preventing and punishing acts of piracy, so as to continue to strengthen every link in the chain of measures against that crime. In that regard, it is crucially important that the Somali people see piracy as

an activity that diminishes their development options, and that there is therefore reason to oppose it.

Similarly, we Somalia's sovereignty over its land and maritime resources should be restored. To that end, it is essential to resolve the legal issue of the delimitation of the marine space, so as to bring it into line with international law and thereby clearly establish the marine territory, the exclusive economic zone and the maritime borders with Kenya, Djibouti and Yemen.

With a view to improving security, the international community should continue to support the forces of the Transitional Federal Government to enable them to carry out their activities on both land and in its coastal waters. To that end, there is a need to improve monitoring and identification with regard to the arms embargo, as well as to consider the possibility of imposing sanctions.

Somalia should assume responsibility for legal proceedings to suppress acts of piracy and put an end to the impunity enjoyed by pirates. There is also a need to make progress in establishing Somali legal instruments that make it possible to try suspected pirates, strengthen Somalia's legal capacity and provide penal facilities where those found guilty can serve their sentences in Somalia.

Without ignoring the importance of an ongoing commitment by the international community to provide assistance and capacity-building in strengthening the legislative, judicial and penal system, the primary responsibility in combating piracy and armed robbery along Somalia's coasts falls on the Transitional Federal Government. Before the transition period comes to an end, it is essential that the legal, penal and procedural framework be reformed in order to adopt appropriate laws on piracy in conformity with the United Nations Convention on the Law of the Sea.

With regard to the jurisdiction of specialized tribunals in Somalia and other States of the region, the goal should be to have courts that have broad jurisdiction that can exercise that jurisdiction both in cases involving common pirates and those having to do with the financing, planning and organizing acts of piracy. While courts to deal with the latter are more complicated and require greater specialization and more time to become fully operational, they can have a greater impact on preventing and eradicating this crime.

My delegation believes that the establishing a specialized extraterritorial Somali court should include the agreement of the Transitional Federal Government and be considered as an interim step whose ultimate goal is to try those suspected of committing acts of piracy within Somalia.

We appreciate the efforts made by Seychelles to set up a regional anti-piracy prosecution intelligence and information coordination centre that would act as a forum for coordinating regional and international support for prosecuting suspected pirates. Such a centre could serve as a logistical facility for the transfer of suspected pirates by naval forces, and could also help to strengthen the rule of law in Somalia.

The agreements reached in the context of the second Constitutional Conference, held in Garowe, to bring the transition period to an end and move ahead with the establishment of a new federal Government in Somalia serve as an important basis for launching a strategy to combat piracy in which each of the regions sees itself as a part of the same country and understands the need to increase cooperation among themselves in order to ensure the success of the initiatives.

We believe that a lasting and stable solution to the problem should be part of the efforts carried out to resolve the Somali crisis and strengthen the rule of law in the country. Any viable option will require adopting a comprehensive approach that includes an institutional structure that ensures governance and makes it possible to pursue Somalia's economic and social development.

Prosecutions may prove pointless if they are not accompanied by the establishment of alternatives to piracy for the Somali people based on investments in communities that produce domestic revenues that contribute to the development of a formal economy.

Ms. Guo Xiaomei (China) (*spoke in Chinese*): First, I wish to thank the Under-Secretary-General, Ms. O'Brien, and the Executive Director of the United Nations Office on Drugs and Crime, Mr. Fedotov, for their briefings.

The root cause of the Somali piracy issue is on land, and therefore it should be treated in terms of both symptoms and root causes. The key is to achieve peace and stability in Somalia and to promote its economic and social development. Therefore, the Transitional Federal Government of Somalia and the international

community should adopt an integrated strategy and promote works in various fields in a balanced manner.

We welcome the important consensus reached by the parties concerned in Somalia with regard to the key transition task of drafting a constitution and deciding the country's future political system. We call on the international community to continue its efforts to assist Somalia to achieve peace and development.

With regard to the establishment of Somali specialized anti-piracy courts, I wish to emphasize the following.

First, we believe that prosecuting and imprisoning Somali pirates and ending their impunity is an important aspect of combating Somali pirates. We are open to the choice of means to achieve that objective and are willing to explore all possibilities, including the establishment of specialized anti-piracy courts in Somalia and other countries of the region.

Secondly, we have taken note of the problems involved in establishing such courts in or outside Somalia and that the parties concerned have not reached an agreement. As reflected in the report of the Secretary-General (S/2012/50), this idea still faces various political, legal and security challenges. We support the international community continuing its efforts to find the most feasible and effective solution while giving due respect to the views of Somalia and the other countries concerned in the region.

Thirdly, irrespective of whether the anti-piracy courts in Somalia can be established in the short term, strengthening the capacity of Somalia and other countries of the region has always been key to the successful prosecution and incarceration of Somali pirates. We have noticed that with assistance from such agencies as the United Nations Development Programme (UNDP) and the United Nations Office on Drugs and Crime (UNODC), judicial capacity-building in Somalia and other countries in the region — such as Seychelles, Kenya, Mauritius and Tanzania — is making good progress. We appreciate the efforts by UNDP and UNODC and the other countries concerned, and we call on the international community to continue this assistance to Somalia and other countries of the region to further enhance their capacity.

Mr. Vaz Patto (Portugal) (*spoke in French*): Mr. President, I welcome your presence among us today.

(*spoke in English*)

I would like to start by thanking the presidency of Togo for having organized this briefing and the Legal Counsel, Ms. Patricia O'Brien, for her very comprehensive presentation of the Secretary-General's report (S/2012/50). I also wish to thank the Executive Director of the United Nations Office on Drugs and Crime (UNODC), Ambassador Yuri Fedotov, for his participation in this briefing, bearing in mind the important role UNODC is called to play in helping build a solution to the problem of piracy off the coast of Somalia. The report of the Secretary-General is both comprehensive and action-oriented. We would like to take this opportunity to thank the Secretariat and the Office of Legal Affairs for the good work done.

The phenomenon of piracy off the coast of Somalia has its roots in Somalia. It feeds on lawlessness and overall impunity and benefits from conditions on the ground that are deficient for fighting this scourge through Somali institutions, an efficient judiciary and an appropriate system for the rule of law.

The dimension of the problem is such that it transcends the territory of Somalia. It spills over its borders, with a serious negative impact on the neighbouring countries, on the region and on the commercial flux of international navigation that runs through the region. Moreover, the phenomenon continues to spread like an epidemic to other countries in the region, which must now also resort to prompt, appropriate measures to fight this scourge if they want to avoid becoming themselves easy prey of the strong networks of pirates with known links to other types of transnational organized crime through financing of criminal activities, including terrorism.

The complexity of these activities and the way they may interlink and potentiate dangerous transnational effects make it advisable that the international community remain vigilant and prepared to act whenever the situation so requires.

There is indeed a role for the Security Council in monitoring these new threats, which have the potential to seriously endanger peace and security. This is why we continue to encourage the Council not to disregard its preventive role in closely monitoring such situations. Last November, under our presidency of the Council, we organized a meeting on new challenges to peace and security (see S/PV.6668), having in mind precisely the importance of the Council closely

following these and other potential threats from the perspective of prevention.

We are therefore very pleased with the fact that the report dedicates a significant part of its focus and recommendations to the need to strengthen the legal and judiciary capacity in the neighbouring countries and the regions of Somalia, including, in particular, Puntland and Somaliland. We fully support those efforts, and we think that reinforcing those capacities has now become part and parcel of the overall solution to piracy in the region.

It is an undeniable fact: the dimension of the problem requires an ensemble of measures and efforts by many actors. We encourage those that can be undertaken by the countries in the region, such as Seychelles, Kenya, Tanzania and Mauritius, to help in this regard, with the support of the United Nations Development Programme and UNODC. Therefore, we support the recommendations in the report that aim at increasing programmes of assistance and capacity-building in these countries and regions, to help them to fight impunity for acts of piracy.

We find, however, that more has to be done to involve Somalia in all those efforts. In our view, no solution can be sustained unless Somalia, as a whole, is able to cope with this problem, with appropriate Somali law and with Somali courts and judiciary — in all, a Somali solution to a problem that has its roots in Somalia. The important report by Mr. Jack Lang (S/2011/30, annex) already pointed clearly to that reality. We cannot avoid it, and the international community has to address it comprehensively by helping build the needed capacity in Somalia, helping it to regain economic and social development and security levels that may enable it to overcome the present difficult situation and avoid becoming an increasingly easy target and prey of organized crime and terrorism networks.

In this sense, we encourage further efforts by the United Nations to assist Somalia to adopt the necessary anti-piracy legislation and to establish the necessary judiciary structures, with participation of international assistance and relevant expertise, as necessary. Extraterritorial Somali courts, as suggested in Mr. Lang's report, could also be useful tools, in our view, to be used as a transitory measure while the necessary security conditions on the ground are not yet met. That is particularly important with regard to the detention and trial of piracy leaders as a vital approach to disrupt the organized networks that support piracy.

We look forward to the next opportunity to discuss these issues and trust that implementation of the recommendations in the Secretary-General's report, together with the contribution of the international community and the Security Council, will make a positive and definitive impact in the fight against impunity for acts of piracy in the region.

Mr. Rosenthal (Guatemala) (*spoke in Spanish*): We would like to thank the Under-Secretary-General for Legal Affairs, Patricia O'Brien, for her detailed presentation of the Secretary-General's report (S/2012/50). We would also like to express our thanks for the briefing that was given by Mr. Yuri Fedotov, Executive Director of the United Nations Office on Drugs and Crime. We commend the efforts that have been undertaken to date by the Secretary-General, together with the United Nations Development Programme and the United Nations Office on Drugs and Crime and the Special Adviser on Legal Issues Related to Piracy off the Coast of Somalia. Those measures have allowed a considerable enhancement of the capacities to enforce the rule of law and to find a solution to such a complex issue.

We note that the percentage of recorded pirate attacks decreased in 2011 thanks to the combination of effective measures including, among others, naval operations and the institution of improved anti-piracy management practices on the part of the shipping industry itself to combat piracy off the coast of Somalia.

We believe that the report provides a basis for moving forward towards establishing an effective system for trying and imprisoning pirates. It is important to analyse in detail the constitutional and legal framework for establishing new anti-piracy tribunals and for defining their potential material and procedural bases, taking into account the multiple problems that the issue poses.

On the other hand, we believe that this debate is linked to resolution 2036 (2012), which was adopted this morning, and to the consultations that we have been holding with regard to the future operations of the African Union Mission in Somalia (AMISOM). Any initiative that supports stabilization in Somalia will have an impact on the illegal activities that are taking place off its coasts.

We are aware of the fact that Somalia cannot address piracy in isolation and that, over the past few years, the phenomenon has taken on a regional dimension. In that regard, Guatemala can contribute its own experience. For, although they are different phenomena, we have been able address the fight against impunity with United Nations support by establishing the International Commission against Impunity in Guatemala. That joint initiative between the Government of Guatemala and the United Nations strengthened the entire judicial and prosecutorial system in our country and gave rise to a culture of combating impunity.

In order to avoid impunity and to discourage new attacks, it is essential to achieve appropriate and speedy trials of those suspected of acts of piracy and to ensure their post-trial imprisonment. We fully support increased assistance from the United Nations to the States of the region to build the necessary capacities to bring pirates to trial and, in the event, to imprison them. The United Nations should focus its efforts on the following key elements, namely, legislative reforms, capacity-building for judging and bringing to trial cases of piracy, effective implementation of the law and improvements to the prison infrastructure in Somalia and in the States of the region. In that respect, Guatemala supports the establishment of specialized courts for piracy committed off the coast of Somalia.

Finally, we believe it is important to take into account the position of the Transitional Federal Government and of the Somali people. At the same time, as part of its programme of institutional enhancement, Somalia must update its legal framework and should adopt a package of anti-piracy laws before the end of the transition period.

Mr. Bonne (France) (*spoke in French*): I would like to thank Ms. O'Brien and Mr. Fedotov for their presentations. I would also thank the Secretary-General for his report (S/2012/50).

For several years now, the Council has regularly discussed the scourge of piracy along the Somali coast. When Mr. Jack Lang presented his report on the legal issues related to piracy in early 2011, there was a general sense of urgency. Today, on the eve of the major conference that will be held tomorrow in London, the diagnosis remains the same. According to statistics, the number of attacks against ships along the Somali coast reached record levels in 2011. It is true that the number and success rate of such attacks have decreased over the past few months, but at what price?

We cannot continue indefinitely to support the immense security efforts that our naval forces provide in the waters of the region. The pirates are shifting their base of action by virtue of our presence, while crews taken hostage are used as human shields and are increasingly led to land. In other terms, there has yet to be a structural improvement. Moreover, there is no credible solution for enticing young Somalis towards other activities. Nor — and this is the subject of today's discussion — has there been a consistent, effective judicial response.

Why do we still lack an operational legal strategy? Today's two briefings gave us the answer. The first obstacle, which is enormous, is the absence of Somali legislation. It is not possible to construct an entire, efficient anti-piracy system in the region and to organize legal cooperation without adequate Somali legislation. The road map called upon the Federal Transitional Government to adopt such legislation before 18 May 2012. Today we are told that the prospects for new legislation will be better after the end of the transition period, when a new Parliament will have been seated. We find that information troubling, as it represents a new delay in drafting legislation. Our message to the Somali authorities on this issue is therefore be clear: progress must be made.

The legal framework in Puntland and Somaliland are no longer operational, according to the Secretary-General's report. One need not read between the lines to understand that the legislative effort needed to address the scope of the problem has not been made.

The second obstacle concerns Somali legal capacities. We all rightly advocate a Somali solution, but the Secretary-General's report is unambiguous. The shortage and poor training of legal professionals, and the security situation, including in Puntland and Somaliland, limits the possibilities for such capacity-building.

Given such challenges, Mr. Jack Lang proposed a bold solution that involved creating a specialized Somali court that would be temporarily located elsewhere, either in Arusha, as Tanzania has agreed, or somewhere else. I understand that there is a proposal from Qatar on the table. There is a need to at last take a practical decision. In the absence of a Somali court abroad, we are in effect forcing the countries of the

region to bear the lion's share of the legal work. Kenya, Tanzania, Seychelles and Mauritius should be commended for their contribution. We will carefully consider the Secretariat's proposals for capacity-building in those countries and for creating specialized courts where none exist. However, it is unreasonable to think that the countries of the regions can alone address the full breadth of the problem. Let us not lose sight of the Somalian solution. It continues to be relevant.

We estimate that 75 per cent of the pirates captured are released without prosecution. Others have estimated the rate is 40 per cent. The Secretariat, in its report, has proposed a study on the scope and root causes of this phenomenon, but to us it seems sufficient to read the report, which explains the legal uncertainties, to understand the reason for this phenomenon.

The adoption of effective Somali legislation must be a priority. All relevant actors, including the United Nations Office of Legal Affairs, the United Nations Development Programme (UNDP) and the United Nations Office for Drugs and Crime, must follow up on that issue and, if necessary, call on the Council in the event that new obstacles appear. Again, without the necessary legislation, we can build nothing sustainable.

Our efforts must also focus on strengthening judicial and prison capacities, not just on the latter aspect. France believes we must sustain a genuine Somalization of the judicial treatment of piracy, which cannot be boiled down to building more prison capacity in Somaliland and Puntland.

Beyond the training of judges and legal professionals, as is being undertaken by UNDP with support from France, we believe it may be useful to provide assistance to prosecutors in building cases. The centre in Seychelles must maintain direct contact with the Somali authorities. Without engaging international judges or prosecutors, it is still possible to dispatch advisors to work with Somali magistrates, while taking due account of security issues. These advisors may not reside permanently in Somalia. We are ready to work with members of the Council and the Secretariat to make rapid and concrete progress.

Mr. Tarar (Pakistan): The Pakistani delegation thanks the Under-Secretary-General for Legal Affairs and the Executive Director of the United Nations Office for Drugs and Crime (UNODC) for their briefings.

Piracy off the coast of Somalia is a serious problem that threatens maritime traffic in the Horn of Africa, endangers the lives of the crews on board, and impacts commerce and trade in the region and beyond. While a decline in the incidence of piracy was recorded in 2011 as compared with preceding years, the menace is far from being eradicated. A recent report by the International Maritime Organization indicates that in 2011 there were, on average, two pirate attacks every three days. The threat posed by pirates to the peace and stability of Somali coastal areas and hinterlands has not diminished with the declining incidence of piracy.

Pakistan is of the view that the eradication of piracy would require a concerted long-term strategy involving a truly integrated approach that encompasses political, security and governance tracks. Traditional measures, as stressed in today's briefing, form an essential element of the integrated approach that we have been emphasizing. The effective prosecution and correction of pirates through judicial means will supplement the important work done by international naval forces to interdict pirates.

The Secretary-General's report (S/2012/50) and the briefing today have empirically evaluated the administrative and financial details involved in setting up regional prosecution mechanisms. In view of its unique situation, tackling piracy has become a shared responsibility. We value the support provided by Seychelles, Kenya, Mauritius and Tanzania in assisting with the prosecution of pirates. International assistance with the capacity-building of the judicial sectors of countries in the region will be critical. It is also important to accommodate the views of Somalia in this arrangement.

In principle, we associate ourselves with the idea of setting up a regional prosecution centre in Seychelles, subject to the consent of the host Government. An effective post-trial transfer framework must be in place if the regional prosecution centre to be effective. We hope that the next meeting of the Contact Group on Piracy off the Coast of Somalia will also deliberate on the prosecution capacity of States in the region.

For our part, Pakistan is currently playing a role in a number of counter-piracy operations. We have participated in the two naval task force operations, Combined Task Force 150 for countering piracy in the

Gulf of Aden, and Combined Task Force 151 for countering piracy off the coast of Somalia. Pakistan assumed command of Combined Task Force 151 in November 2011.

As others have said, no measure to counter piracy can be effective without taking into account the root causes related to the political and security situation in Somalia. Building State capacity in Somalia, preventing environmental degradation of its coastal waters and improving employment opportunities would be imperative to reducing the propensity of local youth to opt for piracy. An effective way to combat piracy, in the context of overall efforts for peace and security in Somalia, is to provide more support to the African Union Mission in Somalia (AMISOM). I take this opportunity to welcome the adoption of resolution 2036 (2012) on strengthening AMISOM. With the resolution adopted today, AMISOM is closer to the African Union's strategic concept paper.

We also welcome the London conference on Somalia being held tomorrow. We hope that its deliberations will go a long way in promoting peace and stability in Somalia and combating the menace of piracy.

Mr. Eick (Germany): I would like to thank Under-Secretary-General O'Brien and Executive Director Fedotov for their comprehensive briefings, as well as the United Nations Development Programme (UNDP), the United Nations Office for Drugs and Crime (UNODC) and the United Nations Political Office for Somalia (UNPOS), which have all contributed to the Secretary-General's report (S/2012/50). We greatly appreciate this detailed, hands-on compilation of issues and requirements relevant to establishing specialized anti-piracy courts in Somalia and other States of the region.

Germany has a long-standing commitment to combating piracy off the coast of Somalia and in the region, including through our participation in Operation Atalanta and our contribution to the work of the Contact Group on Piracy off the Coast of Somalia. Germany has provided substantial support to the efforts of UNODC and UNDP in strengthening the capacities of Somalia and States in the region in the areas of prosecution of suspected pirates and imprisonment of those convicted, both directly and through the Trust Fund of the Contact Group.

But despite these efforts and progress achieved, there is a long way to go. Piracy off the coast of Somalia remains an issue of utmost concern. While we take note of a declining trend in 2011 both in the number of attacks and in the numbers of hostages and ships held, the persistent threat of piracy and of armed robbery remains as grave as ever. Despite the decrease in instances of successful attacks, mainly as a result of the concerted efforts of the international community, the geographical reach of pirate operations now extends into the entire western Indian Ocean. This poses new challenges for those committing resources to combating piracy in that region.

The Security Council has long recognized the importance of prosecuting suspected pirates and imprisoning those convicted as an essential component of international efforts to combat piracy and to end impunity. We continue to hold the view that it must ultimately be in Somalia that pirates are prosecuted and imprisoned. The urgent establishment of adequate structures in Somalia, in line with the rule of law of human rights standards, is crucial to reaching that goal. The report of the Secretary-General is very useful in that regard, assessing the legal and administrative measures, as well as the international assistance necessary for realizing that objective.

We also join the Secretary-General in welcoming the joint efforts undertaken by the authorities of the Transitional Federal Government, Puntland and Somaliland, with United Nations assistance, to draft and agree upon legislation relating to piracy, prisons and prison transfers. We strongly urge the Transitional Federal Institutions to adopt such legislation before the end of the transitional period, as foreseen in the road map.

At the same time, it will be essential to continue and enhance support for the efforts of States in the region, in particular Seychelles, Kenya, Mauritius and Tanzania, to try and to prosecute pirates. As to the specific requirements of regional States, including international assistance, to be able to increase the caseload capacity of each of the jurisdictions concerned, we believe that the present report is a solid national-based needs assessment that provides an excellent basis for advancing the realization of that objective.

In that context we would welcome, in principle, the establishment of a regional prosecution centre to

act as a focal point for regional and international support for the prosecution of piracy suspects. We would support further study on that proposal.

Germany fully supports the recommendations contained in the report of the Secretary-General. In particular, we encourage all regional States that have not yet done so to conclude agreements with naval States and organizations for the transfer of piracy suspects. We urge States and the shipping industry to make further donations to the Trust Fund of the Contact Group, since those contributions are essential for enabling UNODC and UNDP to go ahead with the assistance as outlined in the report.

The report of the Secretary-General is an important step in enhancing international efforts to prosecute suspected pirates and imprison those convicted. We strongly call upon UNODC and UNDP to use the report as a basis for their further work in this area. In particular, information contained in the report should be taken into account when presenting projects to the Board of the Trust Fund of the Contact Group for funding.

Finally, concerning the idea of an extraterritorial Somali court in a third country in the region, as previously proposed by Special Adviser Jack Lang (see S/2011/30, annex), the Secretary-General's report again describes existing challenges with regard to the establishment of such a court. While we take note of those challenges, we believe that the option should be retained among the options at hand, since it could constitute an important element of support to a nascent Somali legal and judicial system.

I should like to conclude by reiterating Germany's strong commitment to continue constructive cooperation with partners in the Security Council and the Contact Group.

Mr. Mehdiyev (Azerbaijan): At the outset, I would like to thank the Legal Counsel and Under-Secretary-General, Ms. Patricia O'Brien, and the Executive Director of the United Nations Office on Drugs and Crime, Mr. Yuri Fedotov, for their briefings and the Secretary-General for his comprehensive report on specialized anti-piracy courts in Somalia and other States in the region (S/2012/50).

In its resolution 2015 (2011) of 24 October 2011, the Security Council determined that the incidents of piracy and armed robbery at sea off the coast of Somalia constitute a threat to international peace and security in the region. The Council emphasized in that regard the importance of finding a comprehensive solution to the problem of piracy and armed robbery at sea off the coast of Somalia and decided to continue its consideration, as a matter of urgency, of the establishment of specialized anti-piracy courts in Somalia and other States in the region with substantial international participation and/or support.

We take note of the clarification contained in the report of the Secretary-General that the term "specialized anti-piracy court" should be understood to refer to a court operating under national law, with international assistance and with a focus on the prosecution of piracy offences.

We note different views of regional States as to the proposed establishment of an extraterritorial Somali anti-piracy court or a regional prosecution centre in a third State. Whatever the advantages offered by the possibilities mentioned, the consent of all regional States is an essential prerequisite for successful and effective anti-piracy cooperation.

It is encouraging that a combination of measures — including actions by naval forces, improved implementation of International Maritime Organization guidance and industry-developed best-management practices for protection against piracy, and the imprisonment of more than one thousand suspects or convicted pirates — contributed to a decline in the number of attacks and a reduction in successful attacks throughout 2011.

Apart from the mentioned actions, national efforts of the Government of Somalia and other regional countries, their commitment to combating piracy, their important prosecution roles and the measures they have adopted to effectively combat the spread of piracy should be commended. At the same time, it is important to ensure that national commitments are matched by strong support and assistance from the international community, including, inter alia, through contributions to the Trust Fund to Support Initiatives of States Countering Piracy off the Coast of Somalia.

Furthermore, it is clear that a sustainable response to piracy off the coast of Somalia requires the re-establishment of peace, security and the rule of law in Somalia and social and economic development for the Somali people. International assistance to Somalia

remains crucial for overall success. Taking this opportunity, I would like to express Azerbaijan's support to the Transitional Federal Government of Somalia in its efforts to overcome difficulties, achieve reconciliation and build a secure, stable, united, democratic and prosperous nation.

Mr. Tladi (South Africa): I thank the Secretary-General for his report (S/2012/50) and thank the Legal Counsel, Ms. Patricia O'Brien, and the Executive Director of the United Nations Office on Drugs and Crime, Mr. Yuri Fedotov, for their briefings.

South Africa remains concerned at the continued incidents of piracy off the coast of Somalia. We have noted the continuing month-to-month decline in the piracy attacks in 2011 due to, inter alia, the presence of naval forces and implementation of industry-developed best management practices and International Maritime Organization guidance. We are hopeful that the trend will continue into 2012 and beyond.

The report before the Council raises important questions about further efforts of the international community to fight the scourge of piracy off the coast of Somalia, particularly in relation to the creation of specialized anti-piracy courts.

The first point that we wish to highlight with respect to the creation of specialized anti-piracy courts is the need to ensure national ownership in the establishment of such courts. The clearest reflection of national ownership is the adoption of national legislation, and in that regard we note the intention of the Somali authorities to exercise their sovereign right to adopt relevant legislation after the transitional period, when a newly elected parliament will be in place.

We have also taken note of the fact that the authorities of Somalia would prefer not to have Somali courts operating outside the territory of Somalia. The creation of specialized Somali courts in Somalia would, in addition to respecting the wishes of the Somalis, have the added benefits of capacity-building and infrastructure development. We are, of course, cognizant that the security situation in Somalia makes that a difficult prospect. But that fact should galvanize us to make a greater effort to address the security challenges and instability on land.

We also wish to highlight concerns expressed by a number of national authorities about the creation of new, specialized anti-piracy courts with jurisdiction limited exclusively to piracy. Like those States, we are concerned that this may serve to redirect the limited prosecutorial and judicial resources from other crimes that are of equal importance to those countries.

Moreover, the wisdom of creating specialized courts, appointing prosecutors, judges and other staff to deal only with piracy must be assessed, taking into account the rate of prosecutions in the countries where such courts are being considered. The figures presented in the report of the Secretary-General indicate that since 2006 there has been a total of only 639 prosecutions in the countries concerned. In that regard, we concur with the assessment made in the report that prior to embarking on what could be a costly project, there should be an assessment of the anticipated caseload.

The third issue that we wish to highlight is one that is not addressed in the current report, namely, the problem of illegal fishing and dumping off the coast of Somalia. It is an integral part of the problems off the coast of Somalia. The issue is considered in the Secretary-General's report of 25 October 2011 (S/2011/661) and, for that reason, we can be fairly brief. Given the presence of so many naval vessels in the area, we find it difficult to understand how there can be the kind of dearth of information reported in the Secretary-General's report of October 2011.

We hope that, in the context of paragraph 24 of resolution 2020 (2011), those States and organizations with a naval presence in the area will provide the Secretary-General with the necessary information to enable the Council to take the matter further. If we fail to take decisive action in that regard, we risk creating the impression that the Council is willing to act to curb piracy only because the vital economic interests of some countries are threatened. Conversely, the lethargy in acting against the plundering of Somali resources could be construed as undermining the sovereignty and territorial integrity of Somalia, which the Council reaffirms in all its resolutions.

I wish to conclude with, perhaps, the most important point. Piracy off the coast of Somalia is a serious problem with huge implications. However, it remains a symptom of a greater problem, which is the instability and political challenges on land. The problem of piracy cannot be resolved until all the main challenges are confronted. According to available

information, over $2 billion was spent in 2011 alone on naval presence — excluding, of course, the other costs that we have spoken about today — compared with a measly $300 million that was approved for the support of the African Union Mission in Somalia in 2011. That is a picture that is out of balance.

Sir Mark Lyall Grant (United Kingdom): I thank the Secretary-General for his report (S/2012/50) and both Patricia O'Brien and Yuri Fedotov for their comprehensive briefing this morning. We are grateful for the work of the United Nations and its agencies on counter-piracy programmes, particularly the efforts being undertaken by the United Nations Office on Drugs and Crime (UNODC) and the United Nations Development Programme (UNDP) with States in the region and in Somalia itself.

The United Kingdom remains strongly committed to the fight against piracy. We believe that it is vital to break the piracy business model. We need a comprehensive approach that tackles piracy directly and its root causes on land. Piracy will be one of the main focuses of discussion at the London Conference on Somalia, which my Prime Minister will host tomorrow.

Despite the significant reduction in the number of successful attacks in the past year, the threat of piracy remains serious. We strongly support efforts to bolster prosecution and prison capacity in regional States and in Somalia. Several States already play a vital role in bringing suspected pirates to justice, supported by the international community.

The report highlights serious capacity constraints in Somalia. Prosecution by regional States has therefore been instrumental in efforts to counter piracy. We believe that that continues to be the most effective way to prosecute pirates over the short term. We support, in principle, the report's implementation proposals to increase capacity through specialized anti-piracy courts in Somalia, but continuing our work to build the capacity of regional States also remains essential.

The report reaffirms the preference of regional States that we should build capacity in a way that does not prevent facilities and expertise being used to prosecute in other areas of the law. We agree that that would help create a more sustainable solution to the piracy problem.

A long-term solution that would enable Somali pirates to be prosecuted and imprisoned in Somalia is necessary. The report notes the preference of the Somali authorities for new courts to be established within Somalia rather than extraterritorially. That approach is in line with the existing work of UNODC and UNDP to build capacity in Puntland and Somaliland. We fully support that approach.

The report rightly highlights the problem of limited prison capacity. In that regard, we welcome recent efforts to ensure that convicted pirates serve out their sentences in Somalia, in particular the commitments made by Puntland and Somaliland for post-trial transfer. We hope that agreement on the legal and practical framework for transferring pirates to United Nations-constructed prisons in Somalia is reached quickly. We are grateful for the commitment of the Seychelles to transfer convicted pirates to Somaliland.

We strongly support the work of the UNODC counter-piracy programme, including on the investigation and trial process, and its work to provide additional prison capacity. We call on all partners in the international community to work together to create a sustainable model for regional prosecution. We will continue to provide bilateral assistance on prosecution and prison capacity, as requested by regional States.

The Contact Group on Piracy off the Coast of Somalia is undertaking important work to explore the legal and evidential thresholds for prosecution, with the aim of increasing the number of successful prosecutions of suspected pirates. It is important that we coordinate that work as we move forward.

The threat of piracy, the effects of the famine in Somalia and terrorism are all symptoms of one central problem — the breakdown of the Somali State. Tackling piracy and its causes cannot be separated from that. We need to tackle the factors on land that feed piracy at sea, including deterrence, security, the rule of law and development. It is crucial that the international community mobilize in an integrated way. The United Kingdom provided over $15 million in bilateral support for that agenda last year. Today, we have announced a further $30 million for the stability of the Somali regions. We urge others to respond quickly and generously.

The President (*spoke in French*): I shall now make a statement in my capacity as the representative of Togo.

I thank Ms. O'Brien and Mr. Fedotov for their very detailed briefings on the issue of piracy, which remains a significant concern today, in particular in Somalia and other regions of the world. Furthermore, for that reason the Security Council decided to urgently consider the possibility of establishing specialized courts to investigate and try individuals suspected of piracy in that region, with the participation and/or crucial assistance of the international community.

My country, Togo, congratulates the Somali authorities and other States of the region on efforts to prosecute or imprison individuals suspected or found guilty of acts of piracy. My delegation thanks the various bodies of the United Nations system providing multifaceted assistance in order to build or strengthen the capacities of national courts to that end.

Togo also welcomes the fact that the number of acts of piracy noticeably decreased in 2011, according to the statistics of the International Maritime Organization. Such encouraging results stem from a combination of several factors, including, among others, the activities of naval forces patrolling the Somali coasts, better implementation of the guidelines of the International Maritime Organization, in particular the presence of armed men aboard merchant vessels, and the imprisonment of several hundreds of individuals suspected or found guilty of acts of piracy.

However, the finding that pirates now operate in the high seas at greater distances is of concern owing to their increasing frequency. That is why my country is very concerned about the fate of ship crews who are taken hostage and serve as human shields for pirates. Moreover, the fact that the number of trials in the world against acts of piracy remains low is a source of concern.

The review of the legal frameworks, the current capacities of specialized anti-piracy courts in Somalia, Seychelles, Kenya, Mauritius and Tanzania, and international assistance to those courts reveals several shortcomings, which are clearly described in the report of the Secretary-General under consideration (S/2012/50). Togo welcomes proposals for the establishment of anti-piracy jurisdictions in the region.

Within this general framework, my country recognizes the priority need for countries of the region to conclude agreements for the transfer of alleged pirates with States having vessels patrolling the zone. It is also critical for investigations to be undertaken and for individuals who fund, plan or organize piracy attacks off the Somali coast to be prosecuted and extradited. An adequate national legal framework, in line with relevant international instruments — including the United Nations Convention on the Law of the Sea — must be adopted by the Somali authorities so as to effectively bring to justice those suspected of committing acts of piracy.

My country encourages States and the maritime transport sector to continue to contribute to the Trust Fund to Support Initiatives of States Countering Piracy off the Coast of Somalia. Similarly, Togo calls on all agencies of the United Nations system to provide multifaceted aid to Somalia and the States of the region so as to increase the number of trials, bolster penal capacity, and strengthen capacities to investigate and prosecute those accused of financing, planning or organizing acts of piracy.

Turning now to specific measures, Togo believes that assistance provided to States must depend on the particular needs of each. The proposals made by the Secretary-General in his report are relevant in that regard because they seek to provide the States concerned with an adequate legal framework and the material, human and financial resources commensurate with achieving the desired objectives.

My country calls on the Security Council to consider establishing anti-piracy courts in the States of the region and a regional prosecution centre. Togo remains convinced that such measures would contribute to deterring perpetrators of piracy in other regions, in particular the Gulf of Guinea.

I now resume my functions as President of the Council.

There are no further names inscribed on the list of speakers. The Security Council has thus concluded this stage of its consideration of the item on its agenda.

The meeting rose at 12.45 p.m.